## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

ROBERT R. BENNIE, JR., individually, and on behalf of BOB BENNIE WEALTH MANAGEMENT, INC.	) Case No. 4:11-cv-03089
Plaintiff,	) ) JOINT STIPULATION ) REGARDING DEFENDANTS' ) MOTION TO DISMISS
	)
JOHN MUNN, in his official and	)
individual capacity, JACK E.	)
HERSTEIN, in his official and individual	)
capacity, RODNEY R. GRIESS, in his	)
official and individual capacity, and	)
JACKIE L. WALTER, in her official	)
and individual capacity.	)
	)
Defendants.	)

All parties, by and through their undersigned counsel, submit the following stipulations regarding Defendants' Motion to Dismiss:

- 1. On June 13, 2011, Plaintiff initiated this action by filing a Complaint. [Docket No. 1].
- 2. On August 19, 2011, Defendants filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b). [Docket No. 23].
- 3. On September 1, 2011, Plaintiff filed an Amended Complaint. [Docket No. 26]. Pursuant to Local Rule 15.1, the parties agree and stipulate that the Amended Complaint supersedes the original Complaint in all respects, and that the Amended Complaint is the operative pleading.
- 4. Parties' counsels further stipulate that the Amended Complaint [Docket No. 26] has rendered the Defendants' Motion to Dismiss moot.

- 5. Defendants hereby withdraw the Motion to Dismiss [Docket No. 23], and state their intention to file a responsive pleading or motion in response to the Amended Complaint within the time frames provided in the Federal Rules of Civil Procedure. [Docket No. 26].
- 6. Accordingly, Plaintiff will not file a brief in opposition to Defendants' Motion to Dismiss [Docket No. 23], and will await Defendants' responsive pleading or motion as to the Amended Complaint. [Docket No. 26].
- 7. Counsels have conferred, and counsel for Defendants authorizes counsel for the Plaintiff to file this stipulation using the electronic signature of counsel for the Defendants.

WHEREFORE, the Parties jointly stipulate that the Defendants' Motion to Dismiss [Docket No. 23] is hereby withdrawn as moot, and Plaintiff will not file a brief in opposition thereto.

Dated this 8th day of September, 2011.

Respectfully submitted,

ROBERT R. BENNIE, JR., individually, and on behalf of BOB BENNIE WEALTH MANAGEMENT, INC., Plaintiffs

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